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GARY K. NELSON, THE ATTORNEY GENERAL
STATE CAPITOL
PHOENIX, ARIZONA

July 18, 1968

DEPARTMENT OF LAW LETTER OPINION NO. 68-15-L (R-76)

REQUESTED BY: THE HONORABLE EINO M. JACOBSON
Yavapai County Attorney

QUESTION: Does A.R.S. § 7-103, as amended in 1968, require a separate power of attorney for each agent of a corporate surety to be filed with the clerk of the superior court, or may the corporate surety file one power of attorney covering several agents?

ANSWER: A separate power of attorney should be filed for each agent.

A.R.S. § 7-103, as amended in 1968, provides:

"A. When a bond or undertaking conditioned upon the faithful performance of a duty, or upon doing or refraining from doing anything in the bond or undertaking specified, is by the laws of this state required or permitted to be given with surety, the execution or the guaranteeing of the performance of the condition shall be sufficient when executed or guaranteed solely by a corporation incorporated under the laws of the United States, or of any state, authorized to execute the bond or undertaking within this state, if the bond or undertaking is approved by the court, body or person required to approve or accept it. An officer or person having the power of approval of a bond shall not exact that it be furnished by a surety company or by a particular surety company.

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B. The corporate surety shall file with the clerk of the superior court a power of attorney for each agent of such surety appointed to execute a bond in its behalf. A fee of two dollars for each such filing shall be paid to the clerk of the superior court."

Subsection B, with which you are concerned, is an entirely new addition to the statute. There is no reported decision interpreting it, nor is there a long standing administrative interpretation to which we may look for guidance. The intent of the Legislature can only be determined by the language used, aided by canons and rules of construction. Barlow v. Jones, 37 Ariz. 396, 294 Pac. 1106 (1930); Garrison v. Luke, 52 Ariz. 50, 78 P.2d 1120 (1938).

The statute provides that "a power of attorney" shall be filed for "each" agent of the corporate surety, and a fee of \$2.00 shall be paid for each such filing. It is our opinion that the language used in subsection B is sufficiently clear that it should be interpreted in accordance with its apparent meaning. A.R.S. § 1-213. Accordingly, the clerk of the superior court should accept for filing only a separate power of attorney for each agent so appointed.

Respectfully submitted,

Gary K. Nelson
GARY K. NELSON *wcc*
The Attorney General

GKN:sg